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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,346	05/02/2006	Rajesh Khattar	AKC631SP1US	9090
27624	7590	07/31/2007		
AKZO NOBEL INC. INTELLECTUAL PROPERTY DEPARTMENT 120 WHITE PLAINS ROAD 3RD FLOOR TARRTOWN, NY 10591			EXAMINER ZUCKER, PAUL A	
			ART UNIT 1621	PAPER NUMBER
			MAIL DATE 07/31/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/564,346	<b>Applicant(s)</b> KHATTAR ET AL.	
	<b>Examiner</b> Paul A. Zucker	<b>Art Unit</b> 1621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>5/5/06, 3/13/06</u> . | 6) <input type="checkbox"/> Other: ____.  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 1-4 6-9, 12 and 13 are rejected under 35 U.S.C. 102(b) as being anticipated by LeSuer et al (US 3,194,823 07-1965). LeSuer discloses (Column 1, lines 46-65) the formation of an overbased alkaline earth metal salt corresponding to that instantly claimed. LeSuer discloses (Column 4, lines 5-34 the use of acids such as hexanoic and 2-ethyl hexanoic. LeSuer further discloses (Table, columns 7 and 8, lines 20-34) the used of the overbased salts as stabilizers in poly vinyl chloride compositions. LeSuer therefore anticipates claims 1-4 6-9, 12 and 13.
2. Claims 1-9 and 11-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Buess et al (WO 03/050070-A1). Buess discloses (Paragraph [0071] a process for the production of an overbased barium complex of C<sub>8</sub> to C<sub>10</sub> carboxylic acids which employs large excess of barium hydroxide base. Buess discloses (Paragraph [0051]) barium:alkanoic acid ratios of up to 8:1. Buess discloses (Page 27, Claims 31 and 32, page 20, top half of page) halogen-containing polymer compositions including polyvinyl chloride compositions. Buess therefore anticipates claims 1-9 and 11-13.

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3. Claims 1, 4 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Van Krutchen et al (EP 0279493-A2 02-1988). Van Krutchen discloses (Page 5, lines 10-21) the formation of an overbased alkaline earth metal salt corresponding to that instantly claimed. Van Krutchen discloses (*ibid*) the use of tertiary carboxylic acids such as 3-methyloctane-3-carboxylic acid and 4-ethylheptane-4-carboxylic acid. Van Krutchen discloses (Page 5, lines 1-8) the use of alkylated salicylic acids as well. Van Krutchen therefore anticipates claims 1, 4 and 12.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35

U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

4. Claims 1, 2, 4-8 and 10-12 rejected under 35 U.S.C. 103(a) as being unpatentable over Krutchen et al (EP 0279493-A2 02-1988).

Instantly claimed is a process of forming an overbased

alkaline earth metal organic complex of a carboxylic acid by the reaction of a basic

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alkaline earth metal compound, and alcohol and/or glycol, a carboxylic acid, and carbon dioxide comprising using, as the carboxylic acid, one or more non-fatty alkyl group-containing carboxylic acid(s) selected from the group consisting of an non-fatty alkyl group-containing carboxylic acid(s), alkyl group-substituted aromatic carboxylic acids, unsubstituted aromatic carboxylic acids, and mixtures thereof.

Van Krutchen teaches (Page 5, lines 10-21) the formation of an overbased alkaline earth metal salt corresponding to that instantly claimed. Van Krutchen teaches discloses (*ibid*) the use of tertiary carboxylic acids such as 3-methyloctane-3-carboxylic acid and 4-ethylheptane-4-carboxylic acid.

Van Krutchen does not exemplify many of the features of the in the instantly claimed reaction.

Van Kruchten, however, teaches (Page 3, lines 25-28) the use of 1-25 equivalents of basic alkaline earth compound. Van Krutchen teaches (Page 2, lines 52-53) the use of barium salts as the alkaline earth compound. Kruchten exemplifies (Page 5, lines 1-8) the use of alkylated salicylic acids and teaches (Page 2, lines 1-8) the use of C<sub>8</sub>-alkylated salicylic acids or carboxylic acids with branched alkyl groups of 4-40 carbons.

Thus one of ordinary skill in the art would have been motivated by Van Kruchten's teaching to make the modifications taught by Van Kruchten to produce the instantly

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claimed process. Because of this teaching, there would have been a reasonable expectation for success.

Thus the instantly claimed process would have been obvious to one of ordinary skill in the art.

### ***Conclusion***

5. Claims 1-12 are pending. Claims 1-12 are rejected.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul A. Zucker whose telephone number is 571-272-0650. The examiner can normally be reached on Monday-Friday 5:30-3:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Evonne Eyler can be reached on 571-272-0871. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

A handwritten signature in black ink, consisting of a large, stylized 'Z' with a horizontal line extending to the right.

Paul A. Zucker  
Primary Examiner  
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